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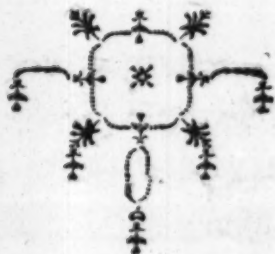
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CONSIDERATIONS

UPON THIS

QUESTION,

What should be an honest Englishman's
Endeavour in this present Controversy
between Great-Britain and the Colo-
nies ?



L O N D O N :

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CONSIDERATIONS



UPON THIS

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QUESTION

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What power is given to the Legislature
in the Constitution to regulate
the Commerce between the States
and with foreign Nations?



If it be said that the power is not
given to the Legislature, then the
answer is, that it is not necessary
that it should be. It is not
necessary for the Legislature to
take a part in the
regulation of the Commerce.
Whether the
Legislature
shall regulate the
Commerce, or whether
it shall leave it to the
Executive, is a question
which is not
settled by the
Constitution.

CONSIDERATIONS

UPON THIS QUESTION,

*What should be an honest Englishman's
endeavour in this present controversy
between Great Britain and the Colo-
nies?*

IT is said to have been one of the laws
of Solon, “ that every man should
“ be compelled, if he would not other-
“ wise do it, to take a part in the di-
“ visions of his country.” Whether this
be upon the whole, and in every in-
stance desirable, will, however, by some

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be

be called in question, considering the wrong-headedness and levity, and other vices of the generality, and how very seldom the still and small voice of reason

can be heard, amidst the tumults and hurry of popular confusions. But the principle upon which this celebrated legislator seems to have gone in this assertion is nevertheless plausible, to wit, that error is more to be tolerated than indifference and profligacy, when matters of public importance are at stake. And in general it may be observed also, that whether this be upon the whole desirable or not, all mankind will at length, and even though at first they might not intend it, take some part or other in national questions; and more especially in such states as Athens and England, where such high degrees of liberty are

are claimed and enjoyed, and where the meanest man thinks himself concerned in what concerns the public.

And therefore, to give even the minds of the populace a right direction in the present interesting controversy between Great Britain and her colonies, cannot be thought an impertinent, or superfluous endeavour. And it has seemed to me, as if something might be done to this end, by an impartial and honest answer to the very obvious and popular question which is proposed in the title; and to which my own answer is in brief this, "that Great Britain may prevail." And that the reader may incline to the same answer also, I shall first consider what may be said for it; and then how far those things have any

weight in them, which have been, or may be, urged against it, and enforced by times willingly, and at other times unwillingly. Things that are self-evident, or how ever very nearly so, do least of all admit of amplification; and on this account only we must needs be brief in the proof and illustration of the first proposal. Has there ever been a time then in which those colonies in America, to which the present argument refers, were not subject to Great-Britain? Not merely to the King, I mean, considered in his separate and independant character and capacity of King only; but to the supreme legislative power and authority of Great-Britain, consisting of the King, Lords, and Commons, when assembled together, and sitting in Parliament? As almost

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innumerable acts which have been made and enforced by the latter, and sometimes willingly, and at other times unwillingly submitted to by the former, are sufficient to evince. Yea, and even though this seemingly very obvious and almost self-evident truth should be now called into question, yet let us consider for a moment what the pretended subordination and subjection of America to Great-Britain would amount to, if ought less than this could be supposed to be intended. "We will be subject to your King," say the Americans, "but not to your Parliament." As if this was not to render the dependence, obedience, or subjection, call it what we will, of the Americans upon the kingdom and crown of Great-Britain, merely nominal, and com-

complimenting his sacred Majesty; if
 an evasion so insulting and palpable
 could deserve to be so thought of; by
 committing treason, consequentially and
 virtually, at least, against the whole
 British constitution. For upon revolution
 and Whig principles at least, what is a
 King of England without his Parlia-
 ment? To what great and lasting
 purposes of just and equal government
 is he equal? and who of his subjects, if
 honest men, and more especially if Whigs
 and dissenters, would choose to have
 him in his governmental capacity so
 separately thought of? Even in the
 granting of charters, of whatever kind,
 and though it be acknowledged that
 much difficult and deep learning may
 be produced and displayed by some upon
 this subject, to the no small confusion

and

and perplexity of it; yet let us still believe and hope, that our King, does only act, as it were, discretionally, and as the agent and representative of the supreme legislature, and that all that is even then done by him, both is and ought to be subject, in any extreme crisis of affairs, to its revision, and controul and amendment. To deny it, were indeed nothing less than to assert (in as much as every act of the British parliament does pre-suppose the King's consent) that the King cannot do, with the consent and concurrence of the two Houses, what he is already supposed to do without them; or in the language of logicians, that the major includes the minor. And even when under such charters from the King any persons have ever left this kingdom, or may

here-

hereafter do so, yet let it not be supposed that his sacred Majesty either did then, or ever can, wholly emancipate these persons from the allegiance and duty which they owed to the supreme legislature. For were it not the same thing as to acknowledge, that the King, if he pleased, could everlastingly separate from the crown and realm of Great-Britain, either Scotland, Yorkshire, or any other given county, and put them in the same situation of independency upon Parliament, and subjection to himself only, as Hanover now is? which, arguing upon the more obvious and common principles of the revolution, and of the English law and constitution, we are willing to believe, and hope impossible.

Once

Once more ; how came the Americans by all those rights of free-born Englishmen, which they so frequently and justly claim to themselves, and to the very same laws and liberty which we ourselves enjoy, if they are not subject to the British legislature ? That is, to the King and the two houses, when sitting together in their legislative capacity ; and not merely to the King only. “ Where there is no law, there is no liberty,” nor any other legal and established rights, whether those of birth, or of any other denomination. But what laws can a King of England make without his Parliament ? And from whence else, but from this Parliament, and its acts and energies (setting aside some less essential and more local ones which may have been created, perhaps, by the ordinances

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of

of their own subordinate assemblies) have they derived them? Such, for instance, as those which have been allowed and ascertained to us by the great charter, the *habeas corpus* act, the bill of rights, and all others of an equally valuable and fundamental nature; and which, if rights at all, as we own and rejoice to think that they are, are not however so but by the will and power of Parliament.

But it may be said, and, indeed, has been, by such as do not chuse to deny in direct terms the supremacy of Parliament, and are yet willing to favour the Americans, that the Parliament may do wrong, or in other words is not infallible; though, perhaps, it cannot be easily and safely resisted; and is still farther said, that when even the supreme legis-

legislature proceeds to do acts of palpable and notorious injustice, it must then be the effect of mere pedantry, or else of something much worse, to plead for and expect, for any long time, submission and obedience. Inasmuch as no principles to be urged on the behalf of such a government, can be ever more generally acknowledged, or more obviously certain, than this in favour of resistance would then be, to wit, that government itself, is for the good of the *governed*, and was meant, like religion, not for destruction, but for edification.

Here then we most gladly join issue with the advocates for America, or rather with those who while they only utter such sentiments, may be said to be

the friends of human kind in general; and would be glad to know what are the crying evils which have been done by Parliament against America, sufficient to justify resistance upon these principles? Why, they have of late, it seems, wholly changed their system of colony-government and administration, from what it used to be in the late reigns; yea, and from what it was even in the present reign, till after the peace in 1764. But then was not this change made in the then present system, upon *some* grounds at least, and upon such grounds also, as appeared to the generality to be justifiable, both in and out of Parliament? even granting that some had their doubts, concerning the expediency and reasonableness of it. And when the

the

the circumstances of the governed are very materially changed from what they were before, may not even consistency and uniformity in the general principles and spirit of the legislature then require a correspondent change, in their conduct towards them, and treatment of them?

And who is so ignorant as not to know, or can fail to know it if he will, that this has been, and still is, the ground of the altered temper and spirit, as some affect to speak, of the Parliament of Great Britain towards America?

In other words, was it right that these American colonies should not now at least, and in their very improving and advanced state, pay their part towards the

the general expences of the empire, merely because that during their feeble and very infant state, as we may say, nothing of this sort had been demanded from them, and during which time, even positive helps and various indulgencies and benevolences had been granted to them?

Yea farther; has not the urging of such a plea as this, at a time when their abilities and circumstances are so essentially changed for the better, the appearance of a very great want of candour and of justice in it?

And if this reasonableness of their now contributing their share cannot be denied, who will be very eager to say again, that there was any thing wrong, or

or otherwise than quite proper and right, in the particular point and period of time, in which the legislature, acting still upon the same general principles of just and equal government, and varying in their conduct only as circumstances, and abilities, and the nature of the case had varied, did demand this quota from them? At the end of a war, I mean, which had burthened the whole empire with an enormous load of debt, and which, though begun with a view to the common good, and having, as we are willing to hope, in the end such an issue, has, however, most sensibly and immediately advantaged them, and given them many times the ability and opportunity above what they had before, of living securely, growing rich, and contributing their share towards lightening the public oppressions and burthens?

But

But all this it seems the colonists were willing to do, and still are, provided they may be permitted to do it in their own way; or in other words, and as that phrase is to be explained, constitutionally and legally, and as is consistent with the fundamental and unalienable rights and liberties of British subjects. For the pretence, at least, for their refusal and present opposition to government is, that no Englishman can be taxed without his own consent, either personally by himself given, or by his representative whom he has chosen to act for him; and that when they or their fathers went away from England, and settled in America under English charters, they took this, and all other rights of Englishmen with them.

Here

Here I would ask, in the first place, whether it be literally and strictly true, that when the colonists migrated from England, they either did, or could take away with them all the rights of Englishmen, in that absolute and extensive sense in which their partizans and themselves would seem to take the phrase in this controversy?—All the rights of British subjects which are not of a local nature, and, as it were, adherent to the soil, but transferable and communicable, they may be allowed to have taken away with them; and far be it from us to wish that they should not have so taken them; but as all of them are not capable of being practised and enjoyed in a state of colonial emigration or separation from the mother country, in so absolute and complete a degree at least

as under the circumstances of a personal
 residence in it, it can surely be no merely
 or error in politics to assert, that rights
 of this sort, even British subjects, when
 migrating from the mother country,
 could not take away with them. And
 such this right of being represented in
 the Parliament, or in other words, of
 giving away their own money by repre-
 sentatives of their own choosing, would
 seem to be. At the time, for instance, and
 under the circumstances of the emigra-
 tions from England already referred to,
 the persons migrating might have votes
 in the election of the members to serve in
 Parliament for the city of London, or
 for the town and county of Notting-
 ham, or for Norwich, Bristol, or any
 other city or county in the kingdom.
 But they must surely have known,

at the very time of their going away, unless they were thoughtless and ignorant indeed, that these were rights of such a sort as they could not possibly take away; or which however is the same thing, put in use and practice in America: unless by coming again to England at the time of any election, (supposing them to have still retained their freeholds here, and former relations to any of the electing corporations in the kingdom) and then voting, not as Americans, but as liverymen of London, for instance, or as freeholders of Middlesex, or of any other county, only.

It is not therefore true, that the colonists at the time of their migration from the mother country, did take away with them, in the most strict and literal sense,

all the rights and liberties of British subjects, provided that this of being represented in Parliament, by delegates of our own choosing, be one of them. — not that they did by that action legally and criminally forfeit it, supposing them to have then had it: but because that, in its own nature local, irremovable, untransferable. — And to mention this now, is only in effect to find fault with their own act and deed, and to complain of an issue and estate of things into which they did voluntarily, and with their eyes open, put themselves.

In the second place, I would ask whence it comes to pass, that this want on the part of the Americans, of a due weight and interest in the popular branch of the supreme legislature of this kingdom,

dom, is now only, or however chiefly
 pleaded. For it is indeed now, for
 the very first time, a new discovery.
 Or again, is it more now, on the other
 hand, that the supreme legislature of this
 kingdom have for more than a century
 past; that is, from the very beginning
 of these colonies and plantations, exer-
 cised over them the very same powers
 as they have done over us in England?
 Though it be notorious, that during
 the whole of this time, the Ameri-
 cans had not then, any more than now,
 any representatives in the House of Com-
 mons, nor any voice in the elections of
 its members? In the second place, I
 whence it comes to pass, that this want
 Why no, neither of these have been,
 or will be asserted. But the novelty of
 the present case, it seems, lies here, that
 the

the Americans are now taxed by Parlia-
ment, which it is pretended they never
were before, and is acknowledged also
on the other hand, that they never be-
fore were, so systematically, and design-
edly, and formally, as it is now pro-
posed and thought reasonable, that they
should be. And this power of taxation,
it seems, is of so transcendent and high
a kind, that even the supreme legislature
is not equal to it, in respect of Ame-
rica, though it is acknowledged to be
so, or however was till very lately;
to every other purpose of colony go-
vernment.

So the Americans, who do not chuse
any more than ourselves, to pay taxes
while they can avoid it, are pleased to
say: and so their partizans also, for
reasons

reasons which are best known to themselves, and which will not be easily entered into by others, are almost daily saying for them.

For first, why this acknowledgement of the propriety and importance, in words at least, of all the other prerogatives and powers of the supreme legislature, save in this point of taxation only?

When honest and undissembled good sense and reason would rather seem to teach, that all these several things do hold together, as it were, by a strong and indissoluble chain, and that wherever the former prerogatives and powers are, this latter, though perhaps the least agreeable of all, must needs be: And will also for the same reason perhaps be apt to conclude — that in the same supreme legis-

legislature and council in which every thing else is overseen, and judged of and done, the due proportion of expence to be payed by all and each, can be alone adjusted with ability and equity.

Neither does it seem to be an allegation of any great propriety and importance to say here, as some, for the sake seemingly of perplexing an obvious and plain argument, have done and still do, "that taxes are free gifts," — even though the notion may be in some certain senses true, and is conformable, as I am told, to certain forms and ideas of our ancient English constitution. — For the proposition can surely mean nothing more, than their being freely given by the representatives of the people, when assembled together in their parliamentary capacity ;

capacity; in which sense it may be acknowledged, that all the people in the empire of Great Britain, who send representatives to Parliament, do yet give them. But then how does this at all apply to those colonists, unthought of, because unknown, when the foundations of the present excellent constitution of this kingdom were laid, who have knowingly receded from, and left behind them here in England, this power and capacity of being so represented, and have never since, after the example of some others of their fellow-subjects in a not very dissimilar situation, —

The inhabitants of the counties, Palatine of Chester and Durham, who were taxed by Parliament before they were represented in it; (for the law loves uniformity) and were also attended to and satisfied, so soon as they dutifully complained

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tion, desired to be restored to it; or even petitioned that something like an equivalent or compensation for it, might be granted them?

In the second place, why is this power of taxation in respect of America supposed to be such an especial and excepted case, and of too transcendent and high a kind to be exerted by a legislature, which is allowed to have exercised, until perhaps of late, all the other powers of legislation and of government? Are laws, for instance, which adjust punishments to crimes, and which may therefore eventually take away even

ed of this to the legislature, as a grievance and disadvantage to them. A case, it seems, which our American brethren either did not know, or did not choose to profit by.

life

life itself, of less concernment to the subject, than such as take away his property only? Or again, and to omit all reference to such laws of the British Parliament as have very materially affected, and do still affect, the interior state of things in the British American colonies, are laws which only externally limit and restrain trade, and do thus in various ways take away from the subject the opportunity and power of getting more money; are these, I say, more oppressive, yea, and under some circumstances may they not become much more so, than those which only take away a part, of what has been already gotten? And yet such laws as these, it is well known, that the Parliament of England hath long made and enforced, and doth still continue to do so, in respect of America.

and the real truth is, that the so lately popular and much boasted distinction of taxes into external and internal, is for every purpose of instruction in the present argument, false and groundless, as the Americans themselves have of late acknowledged : and that if this plea, of not being represented, be good against any, it is equally good against all the acts of the British legislature. For why have one's trade restrained, or one's state and character, with respect to innocence or guilt, described and ascertained—why even send petitions to, or receive bounties and favours from, or in any way whatsoever acknowledge, a Parliament, in which one is not represented? To such a degree have the Americans been always slaves, ever since their first emigration; and not merely

since the passing of the late obnoxious
 acts, as some affirm, if the being sub-
 ject to laws to which they have never
 given their consent, and to which their
 consent was never asked, be sufficient
 to prove them so. the Americans themselves
 to, and that it is plain : begged work
 this. Are then the Americans, a numerous
 and virtuous and loyal people, and who
 are strongly attached to liberty, and of
 whom no inconsiderable part went over
 to America for the sake of enjoying it,
 to be taxed, that is governed, (for the
 two things are reciprocal, and will in the
 issue suppose for infer one another) by
 a Parliament in which they have not
 any agents, nor deputies, nor representa-
 tives, and which is not less than three
 thousand miles from them? Or rather,
 do not common sense, and the most obvi-

ous and necessary feelings of humanity, revolt at such a notion. And more especially, when we have pursued such an idea and system of government into some of its remote and very probable consequences; however plausibly we may conceal for a time the injustice and absurdity of it?"

So any friend of liberty and mankind may be imagined to object. And because that we mean to satisfy, and not merely silence, and would prefer before all things a just and candid procedure, I shall now reply to this objection.

First then I observe, that even granting, for the sake of the argument, and in order to see what it will at length

issue

issue in, that the present constitutional and legal claims of the British Parliament over the Americans have the appearance of being somewhat monstrous and unnatural, and not quite conformable to the present popular notions of British freedom, and of equal and just government in general ; it cannot however be said, that there was originally in the spirit and principles of the British constitution towards America, any thing intentionally malignant and unfavourable. In as much as till very lately, the obligations upon either side seem to have been pretty nearly equal, and the one full as willing to receive protection, as the other has been to demand obedience. And therefore the question ought not now to be, whether a rule of such an extent and kind, as we have in fact seen
England

England, according to the constitution, to have over America, be right? (in as much as it has evidently been the consequence of such causes, and other operations of time and chance, or if we will, Providence, as were not at first foreseen, and which could not therefore be provided for) but this only, whether, under so remarkable and unexpected an issue and event of things, a change in the constitution and disposition of American affairs, may not be now reasonable and necessary?

The which, if it should be asserted, or assumed for true, as it most probably will, by the Americans and their partizans; may we not then ask, in the second place, whether even such an event can be brought about, either for
their

their good or our own, so safely and well, in all respects, as by a previous acknowledgment in them, of such a constitutional and legal supremacy in the Parliament, as we are now pleading for? For surely Englishmen, and Whigs, and any other persons of whatever name and description, if yet the real friends of liberty, will never allow, that the King himself, either is, or can be, equal to such an alteration in our government and constitution, as any thing of this sort would seem to amount to?

And with equal reason, it may be surely hoped, on the other hand, that no American is yet so heated with party rage as not to see and allow, that the change, if possible and important, ought to have been proposed and endea-

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voured (as we are willing to hope it yet may) in this constitutional way first, and before the terrible and fatal *darnier* resort of force be irrevocably, and once for all, appealed to?

But why cannot America, say some, be considered as being in much the same estate with relation to Great-Britain as Ireland? and as such have its own parliament, or parliaments, having within themselves the sole power of taxation?

To wave for the present what will seem to some, too hastily taken for granted in the objection, it would seem a sufficient answer to reply at present, that the constitutions of Ireland and of the American colonies are as yet essentially

ally different; the former having never emigrated or colonized from England in the same manner as the latter; but being usually and best conceived of as a conquered country, which made for itself the best capitulation that it could, and of which one part was the retention of its own Parliament: and further than this, that these American colonies never can become like it, or in a better state than it, or in any other condition which they may please to mention, (unless they mean to throw off all dependence upon the kingdom of Great-Britain, which they have not yet avowed) but by the consent and authority of the British Parliament—an authority and consent, which we shall be obliged to look up to and acknowledge, under some form or another, so long as we stand upon

British ground, and while British subjects
are spoken of.

But the great loyalty of the Americans, and the very liberal and free manner in which they exerted themselves in the last war, even beyond their due proportion and abilities, as the British Parliament appears to have thought, by remittances and acknowledgments made from hence to them,* has been also insisted

* It seems very strange, that those who so often mention this particular, should never yet have observed, that the mere mention of it, under present circumstances, is a kind of tacit acknowledgment of the supremacy of Parliament; that very supremacy and superintendency of it over all persons and in all cases, which we are now pleading for as a necessary and proper right or business had they too judge of and meddle with the conduct of a free people, who were the alone proper judges in what manner,

fixed on, and a presumption grounded upon it, that if left to themselves, they would still continue to be just and generous.

But the great loyalty of the Americans, and the very liberal and free man-

To which we reply, that the question is not now, what they might do; yes, and whether upon some sudden and great emergencies and occasions (as a war for instance upon their back settlements) they might not do even beyond their just proportion again: but this solely, or however chiefly, whether they ought not to

It seems very strange, that those who so often mention this particular, should never yet have

manner, and in what degree also, they should lay out, or give and grant, their own money?

ment of the impudence of Parliament; that very in-

It is also some presumption and proof, I would hope, that at that time at least, the British Parliament had something of justice and equity, of moderation and honour, in its temper and view towards America; who were the alone proper

do

do something more equably and regularly and steadily, and in a time of settled order and of peace, as well as in a time of sudden and of imminent danger and of war only, in order to the relief and alleviation of the public burthens? And to suppose that either the Americans, or Englishmen, or indeed any other men, will continue to do this for any long time, and in their proportion and degree, or indeed could, in the very best manner, if they would, without some superintendency in the supreme legislature, and some direction from it, is to expect from men in general, and of whatever nation, such a discretion, and zeal, and other public abilities and virtues, as neither history or experience will allow us to hope for.

And

And for a moment let us only reflect upon those blessed times of good government and order, which we might expect to see, were this hopeful system but once carried into execution; when the proper estimates, for instance, besides being laid before the British House of Commons, would have also every provincial assembly, or if the reader rather chuses, every parliament in America, to pass through and receive the approbation of, before it could be known what new monies would be wanted, and in what proportion each parliament should give them. In such a case, would not the national accounts in general be in a much worse state, with respect to the dilatoriness of them, than the late Lord Holland's, which have given so much matter of offence to modern patriots?

tricts? And in the great Atlantic too, would it not be necessary to find out some Painted Chamber, or to build over it some castle in the air, in which the proper deputies from their parliaments and ours, might occasionally meet together, and have a conference? And Oh, what order in the financial system, and in all the other departments of government, while these rival and coequal jurisdictions should be settling matters!

But the partizans of the Americans, have still other considerations to urge in their favour, and which are of a much higher order than any of the preceding. For America, it seems, like Judæa of old, is now the chosen land; that part of the world to which every thing that is truly valuable is said to be retiring;

retiring; and in which it is hoped, and seems to be expected by certain political fanatics, that the simplicity and innocence of the paradisaical states and golden ages of the ancients will be renewed: and in which, of consequence, there will be neither place-men nor pensioners, nor corruption, nor luxury, nor bribery: and as some would further add, neither monarchy, nor nobility, nor church, nor clergy. In short, none of those things which at present shackle and enslave us, and hinder our progression towards that estate of popular and supreme liberty, after which so many good souls seem to be panting.

To these, therefore, I would say, in a dialect and stile which they are supposed to be fond of, "He that believeth

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will

will not make haste;" * or in other words, that it is nearly as bad divinity, as it is mistaken and dangerous policy, to think by the encouragement of sedition and rebellion, to mature and forward the designs of Providence. That Great Britain will one day decline, as ancient Greece and Rome and other nations have done; and that America, in her turn, will also have her day of pride, power, and glory, may be reckoned probable; because, conformable to experience, and to those causes and laws, both of a natural and moral nature, to which both individuals and nations seem to be liable. Yet why, even under these circumstances, should we seek to bring upon ourselves, before the time, a political old age, and give the staff out of our hands, ere we need to do so?

* Isaiah, 28, 16.

so? Rather let us live while we can, and rule also; but with justice and moderation; and with so due a consideration of the just and equal liberties and rights, and of the growing strength and importance of those over whom we do rule, as shall leave them little temptation to wish for our room, and to be willing, even though they were better able, to "push us from our stools."

Far be it from the writer of these pages to be otherwise than a friend to liberty and mankind, and to wish ought else than good to America. But he is of opinion, that all subjects should be willing to yield obedience; and that America is yet subject; and that any subjection short of subjection to the supreme legislative power of the Parliament of Great-Britain, or to the King,

in other words, in his Parliamentary capacity, is evasive, and does not deserve the name: and that therefore the Americans ought to suffer under every hardship of which they now complain, until by suitable petitions, and representations made to Parliament, they shall acknowledge its authority, and at least virtually yield obedience. And that when this shall be done by them, and not before, it will be then the duty of every honest man, to wish and endeavour, that they may obtain all reasonable relief, and that the Parliament may even condescend to enter into some express covenant, agreement, or *pacta conventa* with them, (something like what was done with the Scots at the Union, and in case that they shall desire it) in order to relieve them from those fears,

fears, which they so much affect to feel, of wanton and oppressive taxations hereafter. That so at length both they and we, grown wiser by what is past, and laying aside the present jealousies, may again have mutual confidence in one another, and live as friends and fellow-subjects!

FINIS.

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